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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY DEPUTY

05-CV-01662-CMP

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

J.C., individually,

Plaintiff,

vs.

SOCIETY OF JESUS, OREGON PROVINCE, an  
Oregon Corporation,

Defendant.

**C05-1662 JLR**

No.

NOTICE OF REMOVAL OF  
ACTION UNDER 28 U.S.C. §  
1441(B)

(DIVERSITY OF CITIZENSHIP)

TO: Clerk of the Court

AND TO: Michael T. Pfau of Gordon, Thomas, Honeywell et al, attorneys for Plaintiff

PLEASE TAKE NOTICE that defendant Society of Jesus, Oregon Province hereby  
removes to this Court the state court action described below:

1. On September 1, 2005, an action was commenced in the Superior Court of  
the State of Washington in and for the County of King, entitled J.C. vs. Society of Jesus,  
Oregon Province, Case No. 05-2-29071-4. A copy of the Complaint from that action is  
attached hereto as Exhibit "A."

2. Defendant's attorneys, Schwabe, Williamson & Wyatt, P.C., first received  
copies of the Complaint and Summons on September 7, 2005. Schwabe, Williamson &  
Wyatt, P.C. accepted service on behalf of Defendant. A copy of the Summons is attached  
hereto as Exhibit "B."

NOTICE OF REMOVAL - 1

SCHWABE, WILLIAMSON & WYATT, P.C.  
Attorneys at Law  
U.S. Bank Centre, Suite 3010  
1420 Fifth Avenue  
Seattle, WA 98101-2339  
Telephone (206) 622-1711

1           3.       Besides the attached Complaint and Summons, no other pleadings, process  
2 or orders have been filed or served in this case. This Notice of Removal is timely because  
3 it is filed within 30 days of the date of service on Defendant and is the first pleading filed  
4 by Defendant in this matter.

5           4.       The Superior Court of the State of Washington in and for the County of  
6 King is located within the Western District of Washington, at Seattle. Therefore, venue is  
7 proper because this Court is the "district and division embracing the place where such  
8 action is pending." 28 U.S.C. § 1441(a); 28 U.S.C. § 128. Additionally, Plaintiff's claims  
9 set forth events that allegedly occurred in Seattle, Washington.

10          5.       This Court has original jurisdiction of this action pursuant to 28 U.S.C.  
11 § 1332, which provides for original jurisdiction in cases in which there is diversity of  
12 citizenship between parties and the amount in controversy exceeds \$75,000.

13          6.       Plaintiff has asserted a claim against Society of Jesus, Oregon Province, a  
14 foreign corporation, which is incorporated in Oregon and has its headquarters and principle  
15 place of business in Portland, Oregon. (See Complaint, ¶ 2.2.)

16          7.       Plaintiff is a resident of the State of Washington, residing in the County of  
17 King. (See Complaint, ¶ 2.1.)

18          8.       Plaintiff does not allege a specific amount of damages in the Complaint.  
19 However, Plaintiff claims compensation for special damages, general damages, attorney  
20 fees, prejudgment interest, costs, and exemplary damages. Additionally, Plaintiff's most  
21 recent demand to Defendant was well in excess of \$75,000.

22          9.       Defendant Society of Jesus, Oregon Province is the only defendant that has  
23 been served with a Summons and Complaint in this action.

24 ///

25 ///

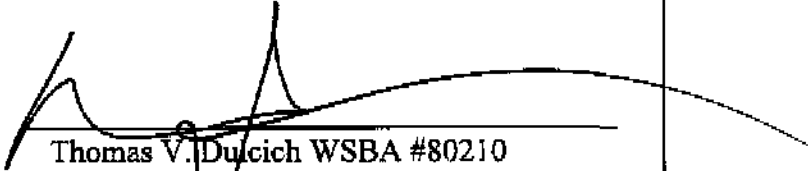
26 ///

NOTICE OF REMOVAL - 2

SCHWABE, WILLIAMSON & WYATT, P.C.  
Attorneys at Law  
U.S. Bank Centre, Suite 3010  
1420 Fifth Avenue  
Seattle, WA 98101-2338  
Telephone (206) 622-1711

1           10.     A copy of this Notice of Removal will be filed with Clerk of the Superior  
2 Court for King County, Washington, and a copy has been served on the attorney for  
3 Plaintiff, as indicated on the attached Certificate of Mailing.

4           DATED this 3<sup>rd</sup> of October 2005.

5  
6  
7             
8           Thomas V. Dulcich WSBA #80210  
9           Mario J. Madden WSBA #30966  
10           SCHWABE WILLIAMSON & WYATT, P.C.  
11           1420 Fifth Ave., Suite 3010  
12           Seattle, WA 98101-2393  
13           Telephone: (206) 622-1711  
14           Facsimile: (206) 292-0460  
15           E-mail: tdulcich@schwabe.com  
16                       mmadden@schwabe.com  
17           Attorneys for Defendant Society of Jesus,  
18           Oregon Province  
19  
20  
21  
22  
23  
24  
25  
26

**CERTIFICATE OF SERVICE**

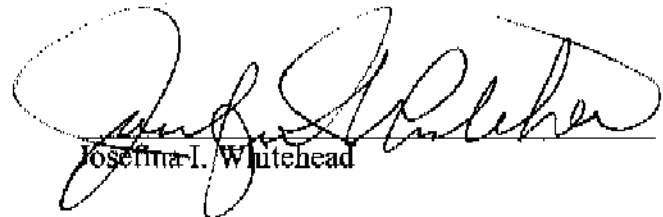
I hereby certify that on the 3rd day of October 2005, I caused to be served the foregoing  
**Notice of Removal Action Under 28 U.S.C. § 1441(b) (Diversity of Citizenship)**  
on the following party at the following address:

Michael T. Pfau, WSBA #24649  
Gordon, Thomas, Honeywell,  
Malanca, Peterson & Daheim, LLP  
600 University #2100  
Seattle, WA 98101  
Telephone: 206-676-7500  
Facsimile: 206-676-1515

by:

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U.S. Postal Service, ordinary first class mail  
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return receipt requested  
hand delivery  
facsimile  
electronic service  
other (specify) \_\_\_\_\_

  
Josephina L. Whitehead

CERTIFICATE OF SERVICE - 1

SCHWABE, WILLIAMSON & WYATT, P.C.  
Attorneys at Law  
U.S. Bank Centre, Suite 3010  
1420 Fifth Avenue  
Seattle, WA 98101-2339  
Telephone (206) 822-1711

## **EXHIBIT A**

RETURN COPY

RECEIVED

SEP 7 2005

Schwabe, Williamson & Wyatt

RECEIVED  
In King County Superior Court Clerk's Office

SEP - 1 2005

Casner Section  
Superior Court Clerk

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

J.C., individually,

Plaintiff,

vs.

SOCIETY OF JESUS, OREGON PROVINCE,  
an Oregon Corporation,

Defendant.

05-2-29071-4 SFA

NO.

COMPLAINT FOR DAMAGES

COMES NOW Plaintiff J.C. by and through his attorneys, Gordon, Thomas, Honeywell, Malanca, Peterson and Daheim, LLP, and Michael T. Pfau, and hereby state and allege as follows:

I. INTRODUCTION

1.1 Father Michael Toulouse was an ordained Roman Catholic priest with the Society of Jesus, Oregon Province. Toulouse was an influential member of the Jesuits with power and authority especially in academic circles. Toulouse was also a child molester who posed a continual threat to adolescent and pre-adolescent boys.

1.2 Plaintiff J.C. was sexually abused by Toulouse when Toulouse was a priest serving Seattle University.

COMPLAINT FOR DAMAGES - 1 of 7  
(1293030 v07.doc)

LAW OFFICES  
GORDON, THOMAS, HONEYWELL, MALANCA,  
PETERSON & DAHEIM LLP  
1201 PACIFIC AVENUE, SUITE 2100  
POST OFFICE BOX 1187  
TACOMA, WASHINGTON 98401-1187  
(253) 820-8800 • FACSIMILE (253) 820-8888

1           1.3     Defendant Society of Jesus, Oregon Province maintained authority, control and  
2 supervision over Toulouse during the time he molested J.C.

3           1.4     J.C. brings this action to remedy broken trust, loss of innocence and physical  
4 and mental anguish he experienced and continues to experience as a result of the Defendant's  
5 acts and omissions.  
6

## 7                               II.     PARTIES

8           2.1     Plaintiff J.C. currently resides in King County, Washington. J.C. was a minor  
9 at the time of the sexual abuse and exploitation complained of herein and lived in King  
10 County, Washington.

11           2.2     Defendant, Society of Jesus, Oregon Province, is an Oregon non-profit  
12 corporation doing business in Washington State. The Oregon Province encompasses a five-  
13 state area including Alaska, Oregon, Idaho, Montana and Washington. The Society of Jesus,  
14 Oregon Province, serves at universities, including Seattle University, schools and parishes  
15 around the Northwest. The Provincial Office, headquarter of the province, is located in  
16 Portland, Oregon  
17

18           2.3     Michael Toulouse was a Jesuit priest from the Oregon Province serving in  
19 Washington State. Upon information and belief, Toulouse was a long time member of Seattle  
20 University's Department of Philosophy, in addition to his role as a priest and spiritual  
21 counselor at the time of the abuse complained of herein. Upon information and belief,  
22 Toulouse died in 1976.  
23  
24  
25  
26

### III. JURISDICTION AND VENUE

3.1 The events giving rise to this lawsuit including the acts and/or omissions complained of herein occurred in King County, Washington. Accordingly, Washington Superior Court has jurisdiction over this matter and venue is proper in King County.

### IV. STATEMENT OF FACTS

4.1 Michael Toulouse was a Jesuit Priest serving Seattle University, under the direction, control and supervision of the Defendant Society of Jesus, Oregon Province during the 1960s and 1970s.

4.2 During that time, Toulouse was also a respected member of the Seattle University faculty in the Department of Philosophy. Seattle University still today conducts a lecture series it calls "The Michael Toulouse, SJ Memorial Lecture" series within its Philosophy Department.

4.3 Also during this time, Michael Toulouse, while under the control and supervision of the Society of Jesus, Oregon Province, used his position as a Catholic Priest and faculty member of Seattle University to engage in a pattern of sexual molestation and exploitation of children.

4.4 Upon information and belief, Defendant Oregon Province knew of Toulouse's propensity toward child molestation during the time Plaintiff J.C. was molested by Fr. Michael Toulouse.

4.5 On or about 1968, when Plaintiff J.C. was approximately 12 years-old, Toulouse sexually assaulted and exploited J.C.



1           4.6     Toulouse took J.C. to the Jesuit residence at Seattle University, where  
2     Toulouse pushed J.C. onto a couch and sexually molested him.

3                               **V.     CAUSES OF ACTION**

4                   **First Cause of Action: Negligence of the Society of Jesus, Oregon Province**

5           5.1     Plaintiff realleges and incorporates the paragraphs set forth above.

6           5.2     At all times material herein Michael Toulouse served as a Jesuit Priest for the  
7     Society of Jesus, Oregon Province and was under the Oregon Province's supervision and  
8     control.

9           5.3     Prior to Toulouse molesting Plaintiff J.C., the Oregon Province knew or should  
10    have known that Toulouse had a propensity to engage in sexual acts with minor children and  
11    that he had sexually molested adolescent or pre-adolescent boys by exploiting his position as  
12    a priest. The Oregon Province knew or should have known that Toulouse would continue to  
13    exploit his status and offices within the Catholic Church to molest more children if allowed to  
14    continue to serve as a priest.  
15    continue to serve as a priest.

16           5.4     The Oregon Province negligently supervised and retained Toulouse as a priest  
17    when they knew or should have known of Toulouse's pedophilic tendencies and his sexual  
18    abuse of young children.

19           5.5     The Oregon Province negligently failed to warn parents and members of the  
20    Catholic community of Toulouse's sexually abusive behavior toward children.

21           5.6     Upon information and belief Defendant Society of Jesus, Oregon Province  
22    knew or should have known that a number of Catholic Priests displayed signs and symptoms  
23    associated with pedophilia and the sexual abuse of minor children. This Defendant failed to  
24    associated with pedophilia and the sexual abuse of minor children. This Defendant failed to  
25    associated with pedophilia and the sexual abuse of minor children. This Defendant failed to  
26    associated with pedophilia and the sexual abuse of minor children. This Defendant failed to

1 timely adopt policies and procedures to identify potential and actual sexual offenders, prevent  
2 their ordination and/or remove them from the priesthood.

3 5.7 Defendant Society of Jesus, Oregon Province, failed to properly investigate  
4 Michael Toulouse's background to ascertain whether he was suitable to be placed in a  
5 position of trust and confidence among children.  
6

7 5.8 Defendant Society of Jesus, Oregon Province, failed to take proper measures,  
8 including removing Toulouse from the ministry, limiting his exposure to children, and  
9 properly monitoring him after it received complaints of his inappropriate sexual behavior with  
10 adolescent boys.

11 5.9 As a direct and proximate result of the Oregon Province's negligent acts and  
12 omissions, Plaintiff J.C. was sexually assaulted, molested and otherwise exploited by Michael  
13 Toulouse. J.C. suffered and continues to suffer damages for pain and suffering, extreme  
14 physical and emotional and psychological distress and other general and special damages in  
15 the amount to be proven at trial.  
16

17 **Second Cause of Action: Negligent Infliction of Emotional Distress by the Society of**  
18 **Jesus, Oregon Province**

19 5.10 Plaintiff realleges and incorporates the paragraphs set forth above.

20 5.11 The Society of Jesus, Oregon Province negligent acts and omissions caused  
21 Plaintiff emotional distress resulting from Michael Toulouse's sexual abuse and exploitation  
22 of J.C.

23 5.12 As a direct and proximate result thereof Plaintiff J.C. has been and continues to  
24 be physically and psychologically damaged and experiences mental anguish, humiliation and  
25 emotional and physical distress all in an amount to be proved at trial.  
26

**Third Cause of Action: Equitable Estoppel and Fraudulent Concealment**

5.13 Plaintiff realleges and incorporates the paragraphs set forth above.

5.14 Defendant Society of Jesus, Oregon Province engaged in a plan of action to cover up and otherwise conceal incidents of sexual abuse of minors by priests which prevented disclosure, prosecution and civil litigation including but not limited to: denial of abuse; reassignment and/or transfer of abuse of priests; coercion of victims and their families; and, failure to seek out and redress victims and their injuries. Based on these actions the Defendant Oregon Province engaged in fraudulent concealment and is equitably estopped from asserting a defense of limitations.

**Fourth Cause of Action: Violation of RCW 9.68A, Sexual Exploitation of Children**

5.15 Plaintiff realleges and incorporates the paragraphs set forth above.

5.16 Michael Toulouse's actions of sexually assaulting and exploiting Plaintiff J.C. violated RCW 9.68A, the Sexual Exploitation of Children Act, including RCW 9.68A.040, and 9.68A.090.

5.17 Toulouse's violations of RCW 9.68A, the Sexual Exploitation of Children Act, were done with the Oregon Province's knowledge and acquiescence. Accordingly, under RCW 9A.08.030, Defendant Society of Jesus, Oregon Province violated RCW 9.68A as well.

5.18 The Plaintiff is therefore entitled to an award of attorneys' fees and costs against the Defendant pursuant to 9.68A.130.

**Fifth Cause of Action: Respondeat Superior**

5.19 Plaintiff re-alleges the paragraphs set forth above.

5.20 During the relevant time period, the sexual abuse of minors by priests within the Catholic Church and the Society of Jesus was so pervasive that it cannot be said such

1 conduct by priests was unforeseen or so far outside the predictable behavior to prevent the  
2 Society of Jesus, Oregon Province from being vicariously liable for such conduct. The  
3 Society of Jesus, Oregon Province therefore is vicariously liable on the basis of Respondent  
4 Superior for the conduct of Father Toulouse as described herein.

5  
6 **VI. PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff J.C. prays that the Court enter a judgment against the  
8 Defendant on Plaintiff's behalf, for the following:

9 1. For special damages resulting from medical treatments, lost earning and lost  
10 earning capacity and the expenses of medication and other special expenses, both in the past  
11 and continuing into the future in amounts to be determined at the time of trial;

12 2. For all general damages regarding physical, mental and emotional upset and  
13 disturbance and behavior disorders resulting from the acts complained of herein;

14 3. For such attorneys fees, prejudgment interest, costs and exemplary damages as  
15 may be provided by law; and

16 4. For such other and further relief as this Honorable Court determines as just and  
17 equitable.

18  
19 Dated this 1<sup>st</sup> day of September, 2005.

20  
21 GORDON, THOMAS, HONEYWELL,  
MALANCA, PETERSON & DAHEIM LLP

22  
23 By 

24 Michael T. Pfau, WSBA No. 24649  
25 Attorneys for Plaintiff  
26